IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 17563 of 2004

Between:

G. Ramesh, S/o. G.K. Raju,
R/o. G.1355 Road No. 45, Jubilee Hills, Hyderabad.

..... PETITIONER

AND

1 The Assistant City Planner, Municipal Corporation Of Hyderabad, Circle No.5 Khairatabad, Hyderabad.
2 Municipal Corporation Of Hyderabad, Rep. by its Commissioner, B.R.K.R. Bhavan, Tank Bund Road, Hyderabad.
3 The District Collector, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or writ, more so in the nature of Writ of Mandamus, declaring the action of the respondents
1 and 2 in refusing to receive the application of the Petitioner for building permission for construction in Plot No. 51-C bearing H.No. 8-2-293/82/L/51/C situated at Sri Venkateswara Co-operative House Building Society for A.P. Legislators Limited in Survey No.120/1, Shaikpet Village and Sy.No.102/1 of Hakeempet Village, Hyderabad as illegal, arbitrary high handed and violative of provisions of the Hyderabad Municipal Corporation Act, 1955 and Municipal Corporation Building Byelaws, 1981 and consequently direct the respondents 1 and 2 to receive the application of the Petitioner and accord building permission without insisting upon 'No Objection Certificate' from the revenue Officials.

Counsel for the Petitioner : Mr.T.SANKARA RAO

Counsel for Respondents 1 & 2 : Smt.G.JYOTHI KIRAN, SC FOR MCH
Counsel for Respondent No.3 : G.P. FOR REVENUE

The Court made the following :

ORDER:

Heard the learned counsel for petitioner and the learned Standing Counsel for Respondents, and both of them agreed for disposal of the writ petition finally at the stage of admission.

The petitioner claims to be owner of Plot No.51-C bearing M.C.H.No.8-2-293/82/L/51/C situated at Sri Venkateshwara Cooperative House Building Society for A.P.Legislators in Sy.No.120/403/1 of Shaikpet village and Sy.No.102/1 of Hakeempet village, Hyderabad. Petitioner stated to have been made application to the respondents for construction permission. It is stated that the respondents have refused to receive the application of petitioner for construction on the ground of petitioner did not submit 'no objection certificate' from the revenue officials. Aggrieved by the same, petitioner filed the present writ petition seeking direction to the respondents 1 and 2 to receive his application and accord building permission without insisting on 'no objection certificate' from the revenue officials.

This Court in **DISTRICT COLLECTOR v. N.KRISHNA MOHAN** categorically held that obtaining of No Objection Certificate from the Collector arises only when any law presupposes. Mere circular or execution order informing the petitioners to obtain No Objection Certificate along with the application filed seeking sanction of permission to construct a building is not at all warranted. This Court while reiterating the same in **HYDERABAD POTTERIES PRIVATE LIMITED v. DISTRICT COLLECTOR, HYDERABAD** categorically held that application for grant of permission to construct a building is conferred upon the Commissioner of Municipal Corporation to consider the same by taking into consideration the documents filed by the applicant along with the application, including the permission already granted by the Corporation to the applicant earlier. The Commissioner shall not reject the application of the petitioner solely on the basis of an objection purported to have been raised by the Joint Collector. The objections, if any raised, will also be taken

into consideration with the relevant material on record. The Commissioner shall not reject the application of the petitioner for grant of permission solely on the basis of entries said to have been made in TSLR or not accompanied by any No Objection Certificate from the revenue officials. The said view is also upheld by the Division Bench in W.A.No. 1096 of 2001 dated 24.12.2001.

In view of the same, the first respondent is hereby directed to receive the application of the petitioner without insisting on 'No Objection Certificate' and consider the same and pass appropriate orders in accordance with law within four weeks from the date of receipt of a copy of this order.

With the directions as above, the writ petition is disposed of.

No costs.

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A.GOPAL REDDY, J

Date: 30.9.2004

DA

To

1 The Assistant City Planner, Municipal Corporation Of Hyderabad,
Circle No.5 Khairatabad, Hyderabad.
2 The Commissioner, Municipal Corporation Of Hyderabad,
B.R.K.R. Bhavan, Tank Bund Road, Hyderabad.
3 The District Collector, Hyderabad.

4 Two CCs to the G.P. for Revenue, High Court Buildings, Hyderabad.

5 Two CD copies.